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4 BRIAN CHAVEZ, et al.,
5 Plaintiffs,

6 v.
7 COUNTY OF SANTA CLARA,
8 Defendant.

9 Case No. 15-cv-05277-RMI
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**ORDER DENYING MOTION FOR
LEAVE TO APPEAL IN FORMA
PAUPERIS**

12 Re: Dkt. No. 121
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Now pending before the court is an application filed by Mr. Howard Herships seeking leave to appeal *in forma pauperis* (dkt. 121). Mr. Herships recently moved to intervene, *pro se*, in this settled class action case (dkt. 117). He also filed a Motion for Civil Contempt (dkt. 116) against Defendant County of Santa Clara. The court denied the motions because he is currently represented by class counsel in this case, and also due to the fact that the contentions underlying his Motion to Intervene (dkt. 117) are fully embodied in a separate lawsuit that he has filed, and that is currently pending, before another judge of this court. *See Herships v. Smith et al.*, Case No. 3:20-cv-07208-JD, Amend. Compl. (dkt. 14) at 3-4, 13, 14, 31, 33. For the reasons stated in the Order denying Mr. Herships leave to intervene in this case (dkt. 119), the court now finds that this appeal is frivolous and not taken in good faith. *See 28 U.S.C. § 1915(a)(3)* (“An appeal may not be taken *in forma pauperis* if the trial court certifies in writing that it is not taken in good faith.”). Accordingly, Mr. Herships’ Motion for Leave to Appeal *in forma pauperis* is **DENIED**. If he so chooses, Mr. Herships may seek pauper status directly from the Ninth Circuit Court of Appeals. The Clerk of Court shall forward a copy of this order to the Court of Appeals.

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1 **IT IS SO ORDERED.**

2 Dated: September 9, 2021

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6 ROBERT M. ILLMAN
7 United States Magistrate Judge

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United States District Court
Northern District of California